

PROPERTY LEASE AND UTILITIES SUPPLIES MAY BE TAXED AT DIFFERENT VAT RATES

We wish to draw your attention to a judgement rendered by the European Court of Justice in a Polish case (**C-42/14**) on 16 April 2015.

ECJ ruled on what VAT rates apply to property letting services and utilities supplies services where the tenant does not directly contract with the suppliers of those utilities (e.g. water, electricity) and the costs are simply recharged onto the tenant by the landlord.

According to ECJ, what VAT rates apply depends on whether:

- the tenant has the right to choose his suppliers or determine his own consumption of utilities (such as through installation of individual meters), in which case the utilities supplies should be deemed separate from the letting services and should be taxed at the rate applicable to utilities, or
- the letting constitutes a whole with the accompanying supplies, in which case the letting services and the utilities supplies should be taxed together as one service according to the rate applicable to the letting service.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

Doradztwo Podatkowe WTS&SAJA Sp. z o.o.

Delta Building, 4th floor
ul. Towarowa 35
61-896 Poznań
tel. (+48) 61 643 45 50
fax. (+48) 61 643 45 51

Warsaw Office

CENTRAL Tower, 22nd floor
Al. Jerozolimskie 81
02-001 Warszawa

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